

Based upon the application and its accompanying documents, the Board makes the following findings in this matter.

1. The proposed net metering project will be located on property owned by the Applicants and located at 790 Lime Kiln Road in Charlotte, Vermont. Application at Section 1.
2. The proposed net metering facility consists of two pole-mounted solar arrays. Each array is approximately 17 feet high and 22 feet wide. Application at Sections 4 and 8.
3. The proposed project has a system-rated power output of 7.98 kW AC. The facility will be interconnected with the Green Mountain Power Corporation electrical distribution system. Application at Section 4 and attachment.
4. Applicants have certified that the project is in compliance with all of the provisions of Sections 3 and 8 of the application. Based on these submissions, we conclude that the project does not raise a significant issue with respect to the environmental criteria of 30 V.S.A. § 248. Application at Sections 3 and 8.
5. The project site will be partially visible from several adjoining properties and Lime Kiln Road. Application at Section 8.
6. Applicants have certified compliance with the insurance requirements as set forth in Section 3 of the application. Application at Section 3.

III. DISCUSSION AND CONCLUSION

The Melbys claim that the Applicants' description of the project's aesthetic impacts on adjoining properties is "totally incorrect." The Melbys state:

There is not a separate sheet describing the visible and aesthetic impact of the project. There is no comment regarding measures to minimize visible impact from Lime Kiln Road and adjoining properties. The installation site defined by stake markers is on a large acreage open meadow with unobstructed and outstanding views in several directions. The site is totally visible. Reference: 30 V.S.A. 248 (b) (5) undue adverse affect on aesthetics.

Application was not fully completed nor correct. There is undue affect on aesthetics. We respectfully request a hearing.

AllEarth asserts that the description of the project's aesthetic impacts included as part of the application "as partially visible" from adjoining properties is "accurate." AllEarth also contends that the proposed site will be approximately 550 feet from the Melbys' home and views of the project from their property will be partially screened by foliage.

With respect to the completeness of the application form itself, we conclude that the information provided by the Applicants regarding the project's visibility adequately addresses the requirements of the application form. The Board's net metering application form, at Section 8.2, requires that applicants "[o]n a separate sheet, describe the visible and aesthetic impact of the project." The Applicants, in response to this application requirement, provided a description of the project's visibility at the bottom of the page of the application form. The Applicants have provided the required information, the fact that the information was included in a blank space at the bottom of a page of the application form, rather than on a separate sheet of paper, does not render the application is incomplete.

With respect to the project's aesthetic impact, Board Rule 5.109(A) provides that the Board may hold a hearing for a net metering system when it determines that the system raises a substantive issue with respect to one or more of the criteria of 30 V.S.A. § 248. Pursuant to the Board's Order of April 19, 1999, in PSB Docket No. 6181, *"Investigation into the Use of a Net Metering System for the Purchase and Sale of Electricity from Small Electrical Generating Systems to and from Electric Companies,"* parties with objections or concerns must make a showing that the application raises a significant issue with respect to one or more substantive criteria applicable to the proposed net metering system. Accordingly, the Net Metering Application Form states that persons requesting a hearing regarding a net metering project "must make a showing that the application raises a significant issue regarding one or more of the substantive criteria applicable to the proposed net metering system."¹

In accordance with 30 V.S.A. § 219a(c) "[a] net metering system shall be deemed to promote the public good of the state if it is in compliance with the criteria of this section, and board rules or orders." Pursuant to § 219a(c), the Board "may waive the requirements of section 248 of this title that are not applicable to net metering systems" and "shall seek to simplify the application and review process as appropriate." The Board's net-metering rule sets forth the following analytical process for determining whether a project will have an undue adverse impact on aesthetics and scenic or natural beauty:

1. State of Vermont Public Service Board Application for a Certificate of Public Good for Interconnected Net Metered Power Systems, at 1. As noted above, the adjoining landowners and other entities specified in Board Rule 5.100 received a copy of the application form for the project before us.

5.108 Aesthetic Evaluation of Net Metered Projects

- (A) The Board has adopted the Vermont Environmental Board's Quechee analysis for guidance in assessing the aesthetic impacts of net metered projects, including wind turbines. In determining whether a project raises a significant issue with respect to aesthetic criteria contained in 30 V.S.A. 248(b)(5), the Board is guided by the two-part test outlined below:
1. First a determination must be made as to whether a project will have an adverse impact on aesthetics and the scenic and natural beauty. In order to find that it will have an adverse impact, a project must be out of character with its surroundings. Specific factors used in making this evaluation include the nature of the project's surroundings, the compatibility of the project's design with those surroundings, the suitability of the project's colors and materials with the immediate environment, the visibility of the project, and the impact of the project on open space.
 2. The next step in the two-part test, once a conclusion as to the adverse effect of the project has been reached, is to determine whether the adverse effect of the project is "undue." The adverse effect is considered undue when a positive finding is reached regarding any one of the following factors:
 - a. Does the project violate a clear, written community standard intended to preserve the aesthetics or scenic beauty of the area?
 - b. Have the applicants failed to take generally available mitigating steps which a reasonable person would take to improve the harmony of the project with its surroundings?
 - c. Does the project offend the sensibilities of the average person? Is it offensive or shocking because it is out of character with its surroundings or significantly diminishes the scenic qualities of the area?
 3. Analysis of whether a particular project will have an "undue" adverse effect on aesthetics and scenic or natural beauty is also significantly informed by the overall societal benefits of the project.

The proposed solar trackers, at approximately 17 feet in height and 22 feet in width, are relatively small in comparison to homes and accessory buildings common in a residential area. The proposed project will also be located over 500 feet from the Melbys' home. The Melbys' assertion that the project will be "totally visible" from certain vantage points does not demonstrate that the project will be out of context with the surrounding area. Thus, we conclude that the Melbys have not shown that the project is out of character with its surroundings and, consequently, have not shown that the project raises a significant issue with respect to adverse aesthetic impacts.²

2. Because the comments have not shown that the project raises a significant issue under the first step of the Quechee analysis, there is no need to continue to the second prong of the analysis that would have examined possible mitigation measures including alternative locations for siting the project.

In Docket No. 6181,³ the Board developed a net metering program in accordance with the statutory requirements of 30 V.S.A. § 219a. This program was further refined by the Board with the adoption of Board Rule 5.100 on March 1, 2001. The goals of the Order and Rule are to encourage private investment in renewable energy resources, stimulate the economic growth of the state and enhance the continued diversification of energy sources used in Vermont. The standards and requirements adopted in the Order and Rule have been determined by the Board to protect public safety and system reliability.

Based upon the findings and evidence, the proposed net metering project will be in compliance with the requirements of the Board's Order in Docket No. 6181 and Rule 5.100, the application does not raise a significant issue with respect to the substantive criteria of 30 V.S.A. § 248, and the proposed project will promote the general good of the state.

IV. ORDER

IT IS HEREBY ORDERED, ADJUDGED AND DECREED by the Public Service Board of the State of Vermont that the proposed photovoltaic net metering system, in accordance with the evidence and plans submitted in this proceeding, will promote the general good of the State of Vermont pursuant to 30 V.S.A. § 219a, and a certificate of public good to that effect shall be issued in this matter, pursuant to 30 V.S.A. §§ 219a and 248.

3. *Investigation into the Use of A Net Metering System for the Purchase and Sale of Electricity from Small Electrical Generating Systems to and from Electric Companies*, Docket No. 6181, April 21, 1999.

DATED at Montpelier, Vermont, this 22nd day of September, 2010.

<u>s/James Volz</u>)	
)	
)	PUBLIC SERVICE
<u>s/David C. Coen</u>)	
)	BOARD
)	
<u>s/John D. Burke</u>)	OF VERMONT

OFFICE OF THE CLERK

Filed: September 22, 2010

Attest: s/Susan M. Hudson
Clerk of the Board

NOTICE TO READERS: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Board (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: psb.clerk@state.vt.us)

Appeal of this decision to the Supreme Court of Vermont must be filed with the Clerk of the Board within thirty days. Appeal will not stay the effect of this Order, absent further Order by this Board or appropriate action by the Supreme Court of Vermont. Motions for reconsideration or stay, if any, must be filed with the Clerk of the Board within ten days of the date of this decision and order.